

## **MEETING MINUTES, PLANNING COMMISSION, FEBRUARY 11, 2008**

**Present:** Phil Tinkle, Brent Corey, Tom McClain, Bettina Settles, Tom Bridges, Jerry Ott, Duane O'Neal, Trent Pohlar, Carmen Madsen, Alford Kessinger, Ed Ferguson, Planning Director; Shawna Koons-Davis, City Attorney; Janice Nix, Recording Secretary

The meeting was called to order at 7:00 p.m. by Trent Pohlar, President.

Pohlar welcomed Brent Corey and Alford Kessinger as new members of the Plan Commission. Mr. Corey is the Common Council representative for this year. Mr. Kessinger has been appointed by the Johnson County Commissioners to represent the Area of Extended Jurisdiction.

### **PREVIOUS MINUTES**

January 14<sup>th</sup> – Tinkle moved to approve the minutes as mailed, seconded by Bridges. Vote for **approval** was unanimous, 9-0. **Motion carried.**

### **OLD BUSINESS**

**Docket PC2008-001 – Re-zoning Petition – 1185 W. County Line Rd.** – Request to re-zone 0.455 acre parcel from R-2 Single family Residential to B-1 Business – 1185 W. County Line Rd. – Origer Properties, LLC, applicant; Van Valer Law Firm, representing.

Tom Vander Luitgaren, Attorney; came forward and was sworn, as well as members of the audience.

The statutory criteria was addressed as follows:

1. **Criteria:** This request complies with the Comprehensive Plan in the following way(s)  
**Answer:** The Comprehensive Plan, in "Table 1 – Goals & Objectives," states as one of the CP objectives the following, in part, "reinforce existing investments . . . retain existing business . . . reinforce and accommodate compatible uses." The approval complies with the CP because the approval is consistent with the above quoted goals and objectives.
2. **Criteria:** This request complies with the Current conditions and the character of current structures and uses in each district in the following ways: **Answer:** The proposed B-1 zoning classification fits perfectly within the current conditions and character of the area. Section 10-72 of the City of Greenwood Zoning ordinance states, in part, as follows: This business district (referring to B-1) is for the conduct of office and professional services . . . that are compatible to the adjacent residential neighborhood and closely associated with residential, religious, recreational and educational uses. Immediately to the west is the Berean Baptist Church and to the north, on both sides of the intersection of Shelby Street and County Line Road and extending to U.S. 31, are a mix of commercial and professional office uses. Immediately to the south is single family residential use.
3. **Criteria:** The request is for the most desirable use for which the land in this district is adapted **Answer:** Given the subject property's geographic location and its surroundings, the most desirable use for the property is B-1. Continued classification as R-2 is simply inappropriate considering the development of County Line Road.
4. **Criteria:** The request will not negatively affect the property values throughout the Jurisdiction because **Answer:** The requested zoning classification essentially allows a chiropractic office having been in operation for more than a decade to continue under the appropriate zoning classification. There has been no indication that the current use of the real estate has negatively affected property values.

5.     **Criteria:**       This request is considered responsible development and growth because  
         **Answer:**       Approval of this request will result in responsible development and growth because the property has existing as a health care office for at least a decade. No change in usage is anticipated at this time. Converting this property back to residential is out of the question considering the development along the County Line Road corridor.

Dr. Origer has operated a chiropractic office at this location for approximately 8 years. This property has been used a chiropractor's office for more than 20 years. He is requesting a rezoning from R-2 Residential to B-1 Business in order to demolish the existing structure and construct a new office building for his chiropractic practice.

Vander Luitgaren stated his client is willing to commit to no parking along Cherryfield Lane, as well as no curb cut onto Cherryfield. They are also in agreement will all commitments proposed in the staff report. A conceptual plan was presented showing the proposed location of the building, which will be approximately 3,000 sq. ft. in size.

Linda Wolf, 1253 Cherryfield Lane, Grwd, came forward. She stated that several residents, including herself, are concerned with the changing of the structure from residential looking in nature to an office building. Traffic is another concern – the roadway is narrow and school buses have a difficult time marking turns and maneuvering. If this property is rezoned, will other adjacent properties also request rezoning. There is a privacy fence being proposed – would rather see landscaping/trees. Mr. Ferguson stated that the Planning Dept. had received a letter from Ms. Wolf voicing her concerns. It is in the file and contains 17 signatures from remonstrators.

Vander Luitgaren came forward for rebuttal. He stated his client would be willing to install landscaping rather than a fence. He again reiterated that they are willing to commit to no curb cut onto Cherryfield Lane.

Ms. Wolfe came forward for rebuttal. She stated she is still very concerned about traffic congestion in the area.

Tinkle pointed out that the property has been used for many years as chiropractor office. The rezoning is being requested in order to construct a new building. The Use Variance would still remain in effect, even if the existing building is demolished and a new one constructed. Planning Director Ed Ferguson replied that yes, it would remain in effect provided the new building was able to be constructed within one year of the time it is started. He went on to say, however, building codes that would apply could be complicated when dealing with Residential vrs. Commercial.

A privacy fence or mounding would be required, otherwise a 20' landscape buffer would be required.

City Attorney reviewed the statutory criteria to be considered by the Commission.

Ott moved that the petition for a Zone Map Change for the rezoning of approximately 0.455 acres of land known as the Origer Properties, LLC Property generally located at 1185 W. County Line Road, within the City of Greenwood, Johnson County, Indiana, from R-2 – Residential – Single-family use to B-1 – Business – Professional and Office use, as set forth therein, receive a **favorable** recommendation from this Commission to the Greenwood Common Council and that the same be certified to the Greenwood Common Council in the form presented, with the following commitments:

1. Minimum building setback distances shall be:
  - (a) front (County Line Rd.) setback = 50 feet
  - (b) front (Cherryfield Ln.) setback = 30 feet or actual established line, whichever is greater
  - (c) rear (south lot line) = 20 feet
  - (d) side (west lot line) – 12 feet or width of utilities easement, whichever is greater.

2. Driveway cut onto Cherryfield Lane shall be prohibited. Ingress/egress shall be from County Line Rd.
3. Landscape Bufferyard along south lot line shall be as per landscape ordinance, except that the area from the eastern building wall to the eastern edge of the parking lot shall be a solid dense planting of evergreen trees and shrubs.
4. Architectural Standards shall include:
  - (a) The building shall be no more than one story, with a maximum height of 25 feet
  - (b) Exterior of the building shall be minimum 75% masonry materials, excluding doors, windows, and vents.
5. The property shall be subject to site development plan review and approval pursuant to city ordinances and Plan Commission rules of procedure.
6. No parking on Cherryfield Ln. (either side).
7. No expansion of use farther southward onto other property.

Seconded by Settles. Vote for **approval** was 8 for, 1 against (O'Neal). **Motion carried.**

#### **NEW BUSINESS**

**Docket PC2008-004 – Re-zoning Petition – 424 S. Forest Park** – Request to re-zone 0.88 acre parcel from B-1 Business to C-1 Commercial – 424 S. Forest Park Drive– Mac J. Martin, applicant; Indiana Members Credit Union, property owner.

Copies of a petition opposing the rezoning, with signatures from 116 homeowners, was distributed for the Commission's review.

Mac Martin, attorney; came forward and was sworn, as well as members of the audience.

The first item to be addressed by the Commission concerns Newspaper notice affidavits and notice affidavit by petitioner. Neither is in the file. Attorney Mac Martin stated that he had not received affidavits from either newspaper, however, he provided copies of e-mails stating the ads had been published. Mr. Ferguson read through the names of property owners listed on proof of mailing. After discussion, Tinkle moved to accept the copies of e-mails as proof of publication and accept certificate of mailing as proof, seconded by Madsen. Vote for approval was 8 for, 1 against (O'Neal). City Attorney Koons-Davis stated that according to the rules of procedure the vote to suspend the rules must be a unanimous vote. O'Neal withdrew his vote and stated he would abstain from voting. The vote was then 8 for, 1 abstention (O'Neal). Koons-Davis read the rules to the Commission and stated it is her interpretation that it must be unanimous, with all members present voting (with no abstentions). O'Neal then stated he would change his vote to "aye" in order to make it unanimous. The vote was then unanimous, 9-0. **Motion carried.**

Attorney Martin stated that the reason for the rezoning request is to make all three parcels the Credit Union owns have the same zoning classification. Originally the Credit Union was under the impression that this lot was C-1, the same as where their building exists to the north.

The statutory criteria was addressed as follows:

1. **Criteria:** This request complies with the Comprehensive Plan in the following way(s)  
**Answer:** This request complies with the Comprehensive plan in that the plan calls this area commercial and the lot is surrounded by commercial on 3 of 4 sides with a large shopping center to the west.

2.     **Criteria:**       This request complies with the Current conditions and the character of current structures and uses in each district in the following ways:     **Answer:**       This request complies with the Current conditions and character of current structures and uses in each district in that C-1 is the prevalent zoning in the area along Madison Avenue except that a major shopping center is to the west and residential is to the east behind the property in question.
3.     **Criteria:**       The request is for the most desirable use for which the land in this district is adapted     **Answer:**       Frontage property along Madison Avenue is almost all commercial and of the C-1 or greater zoning classification.
4.     **Criteria:**       The request will not negatively affect the property values throughout the Jurisdiction because     **Answer:**       The proposed change brings the property in line with the neighboring zoning already in place.
5.     **Criteria:**       This request is considered responsible development and growth because     **Answer:**       It will add to the Madison Avenue commercial corridor as Indiana Members Credit Union has previously done with an attractive branch and landscaping.

John Gibson, 201 Elm St., Grwd, came forward. He pointed out that the Credit Union's ATM machine is on the back side of their building. It is a 24 hr. business, with patrons visiting at various hours, day and night. He is concerned about development of this parcel, with additional traffic existing onto Forest Park S. Dr. onto Madison Avenue. He stated he is opposed to the rezoning. Linda Gibson, 201 Elm St., Grwd, came forward. She read in part from the cover sheet of the petitions presented by the remonstrators earlier in the meeting. She wants the residential area to remain intact. Jim Black, 163 Chestnut Dr., Grwd, came forward. He stated he is concerned about increased traffic. He stated he is opposed to the rezoning. Brent Leichy, 412 Forest Park S. Dr., Grwd, came forward. He spoke about the noise currently from the ATM machine, as well as trash that comes onto his property from the Credit Union property.

Attorney Martin came forward for rebuttal. He stated the Credit Union wants to be good neighbor. He pointed out that a speed bump was installed by the Credit Union per suggestion of the surrounding residents a few years ago. It has helped the traffic coming out of the Credit Union onto Forest Park N. Drive.

Remonstrators then came forward for rebuttal. Linda Gibson stated she feels it should remain B-1 because she feels that is a good transition between commercial and residential zonings. Kim Huddleston, 313 Maple, Grwd, came forward and stated that the traffic is a problem on Forest Park Dr. South.

Ferguson stated a copy of the remonstrators petition presented this evening is in the file.

O'Neal stated he would like to see plans of what the Credit Union has for this property prior to considering rezoning it. Pohlar and Tinkle concurred. Tinkle suggested Martin bring to the Commission proposed uses and proposed commitments. At that time a more informed decision could be made.

The statutory criteria reviewed by the City Attorney.

O'Neal moved that the petition for a Zone Map Change for the rezoning of approximately 0.88 acres of land known as the Indiana Members Credit Union Property generally located at 424 S. Forest Park Drive, within the City of Greenwood, Johnson County, Indiana, from B-1 – Business – Professional and Office use to C-1 – Commercial – Neighborhood Shopping use, as set forth therein, receive an **unfavorable** recommendation from this Commission to the Greenwood Common Council and that the same be certified to the Greenwood Common Council in the form presented seconded by Bridges. Vote for approval of the unfavorable recommendation was unanimous, 9-0. **Motion carried.**

**ANNOUNCEMENTS/REPORTS**

Pohlar announced the members of the 2008 I-65 Overlay Committee: Brent Corey, Trent Pohlar, Bettina Settles, Phil Tinkle, Carmen Madsen.

Bridges announced that there will be a public hearing for the proposed Freedom Park this Wednesday @ 7:00 p.m. at the Community Center.

O'Neal moved to adjourn, seconded by Madsen. Meeting was adjourned at 8:24 p.m.

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JANICE NIX  
Recording Secretary

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TRENT POHLAR  
President